

REMARKS

The present paper is in response to the final Office Action of February 25, 2003 and constitutes the submission required under 37 C.F.R. § 1.114.

The undersigned attorney appreciates the Examiner's sending via facsimile on August 21, 2003 the translation of Toray Industries, JP No. 0790747 and Smith et al., U.S. Patent No. 5,378,019, which documents were used to reject claims but were not provided with the Office Action of February 25, 2003.

Claims 9-21 are now in the case and include new independent claim 17 and dependent claims 18-21.

As discussed in the subject application, an object of the present invention is to reduce significantly the weight and thickness (volume) of an air bag while maintaining the mechanical properties of the air bag as well as durability against long term aging. The basis weight and thickness of the fabric for an improved air bag are reduced by about 20%, preferably 30% or more, when compared with a conventional base fabric used in a conventional air bag. (See application, page 3, line 30 to page 4, line 19.)

In the present invention, a significant mechanical property of the fabric is tensile work. Tensile work at break of the woven fabric forming the air bag is more relevant from a design standpoint than the tensile strength at break. In accordance with the applicants' observation, the dynamic load exerted on the air bag is larger at the stage when the air bag is projected forward to a maximum extent than at the stage when the air bag inflates to a maximum extent and restrains the occupant. (See application, page 8, line 22 to page 9, line 1.) Tensile work of a fabric is generally correlated to the basis weight of the woven fabric if the kind of yarn is specified. It is significant in the

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present invention that an unnecessarily large tensile work at break is contradictory because weight reduction and compactness of the present air bag are important requisites.

The woven fabric of the present invention is specified in terms of a parameter, weave fineness, which is a product of total fineness of warp or weft multiplied by weave density, the product being 16000 decitex•end/2.54 cm or less. The value range of the load at 15% elongation of the fabric is specified in order to obtain a pliable air bag that prevents occurrence of injury of the vehicle occupant at impact. The mechanical properties are maintained even after the air bag has been exposed to prolonged periods of heat-aging, wet heat-aging, and ozone-aging.

Claims 10, 11, 13, and 15 stand rejected in a new rejection under 35 U.S.C. § 103(a) as being unpatentable over Toray Industries ("Toray") (JP 0790747). This rejection is respectfully traversed both as to these claims, as well as new claims 17-21.

With reference to the translation of Toray, this document relates to a base fabric for use in an uncoated air bag which is light in weight, flexible, excellent in stowability and fireproof properties, while maintaining mechanical properties. Based on the embodiments described in the Examples and Comparative Examples of Toray and the description in paragraphs [0023] and [0027] to [0029] of the translation, the invention of Toray appears directed to a fabric formed of nylon or polyethylene terephthalate yarn having a yarn size greater than 210 denier. Toray's base fabric has improved mechanical properties, particularly tear strength, air-permeability and flame-proofing, while being light in weight, with good softness and stowability and, accordingly, can be used as a base fabric for an uncoated air bag in place of a rubber-coated base fabric.

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In this connection, reference is especially made to paragraph [0028] which states that the desirable lower limit of total yarn fineness of the weaving yarn is 210 denier in order to satisfy the mechanical properties.

In Examples 1 to 4 and Comparative Examples 1 to 3 of Tables 1 and 2 of Toray, the fabrics are formed by weaving nylon 66 filamentary yarns containing a copper compound (80 ppm) in the presence of potassium iodide on a water jet loom, the multifilament yarns having a total yarn size equal to or exceeding 315 denier. See the (D-fil) and (d) lines: 420/144 filaments (2.9d); 420 denier/216 filaments (1.9d), 315 denier/144 filaments (2.2d), and 420 denier/72 filaments (5.8d). The multifilament yarns in Table 1 are constituted of a plurality of single filaments having a denier of 1.9 to 2.9.

While the basis fabric of Toray satisfies certain features of claim 10, differences between this claim and Toray were identified by the Examiner and are significant and readily distinguish claims 10, 11, 13, and 15.

Attached Tables A and B and the Supplement to Tables A and B: Definitions have been prepared by the assignee of the subject invention and are submitted for the Examiner's perusal. In these two tables, the fabrics of the present invention are set out in Examples and Comparative Examples of Table A, and the fabrics of Toray are set out in Examples and Comparative Examples of Table B. In these tables, the respective features are compared with respect to weaving yarns, weave fineness, cover factor, tensile work of fabric, and tensile work/g fabric.

In the tables, the data are estimated data obtained by calculation based on the data expressly described in the respective Examples in the subject application and the

Toray document (e.g., strength/3 cm data of Toray is converted into strength/2.54 cm; yarn (filament) size in denier is converted to decitex).

As understood by a comparison of Tables A and B, it is submitted that the fabrics of the Toray Examples and Comparative Examples clearly have different levels of weave fineness. These levels are completely out of the scope of a claimed feature of the subject invention, even though the fabrics have almost the same levels of cover-factor values. This distinct difference in fabric structure in terms of weave fineness between the present fabrics and Toray fabrics is recited in claim 10 and new claim 17, i.e., "wherein the product of fineness of the warp or weft of the fabric multiplied by the weave density of the fabric being less than 16000 decitex•end or pick, respectively, /2.54 cm."

It is further submitted the value of weave fineness is directly correlated with basis of weight of a fabric and generally correlated to tensile work of the fabric which clearly suggests that the fabrics of the present invention are formed based on a fabric design concept completely different from that of the Toray fabrics.

Weight reduction and compactness of folded air bags are an important object of the present invention. This object is achieved by selecting a woven fabric in reference to its weave fineness so that the fabric has an appropriate tensile work at break. In claim 10, as well as in claim 9, the last limitation sets forth a condition that excludes a fabric having an unnecessarily large tensile work at break. (See application, page 9, lines 12 to 20.) Although the Examiner admits that Toray does not disclose a "tensile work at break of 7000 to 30,000N%/2.54 cm" specified in claims 10 and 17, it is submitted the reference in Toray to a cover factor of 2000 or more does not lead

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someone skilled in the art to the design of the claimed fabric having the features admittedly absent from claim 10 and thus claim 17. It does not become a question of "routine optimization" in such case because the basic structure is not taught, or made obvious or attainable to someone skilled in the art based on the Toray disclosure.

In claim 17 and its dependent claims 18-21, the limitation that the yarns have a yarn fineness in the range of 66 to 167 decitex has replaced in claims 9 and 10 the limitation that each filament in the yarns has a fineness in the range of 1 to 3.3 decitex. This feature alone distinguishes Toray and makes the assertion of "routine optimization" moot. Toray's base fabric cannot be formed practically of multifilament yarn having a yarn size smaller than 210 denier. In [0028] of the translation, Toray states that to satisfy the mechanical properties of a base fabric from a practical standpoint, for a minimum, it is desirable that the fineness of the fiber is 210 denier. To engage in "routine optimization" below this level and especially down to the claimed level of 66 to 167 decitex is not only not taught by Toray but essentially taught against. Thus, someone skilled in the art met with this teaching would not seek to vary the fineness of yarn below this level because of the concern of whether the mechanical properties of the base fabric could be achieved.

Furthermore, as discussed in prior Amendments, the facts and reasoning in the cited Boesch and Slaney case are inapposite to the facts at hand for a number of reasons, including, but not limited to, the fact that there is not the requisite overlap in the identified limitations missing from Toray which overlap must be present before one can resort to "routine optimization." The MPEP does not authorize an Examiner to limit examination by dismissing any claimed structure not uncovered in the prior art as

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essentially irrelevant which is what has been done in the present case under the guise of "routine optimization."

Claims 9, 14, and 16 stand rejected as unpatentable over Toray in view of the newly-cited patent to Smith et al. ("Smith") U.S. Patent No. 5,378,019. This rejection is also respectfully traversed. The shortcomings of Toray have been discussed above regarding claim 10 and apply equally here for claim 9. The addition of Smith, assuming arguendo that it is combinable with Toray, does not correct these shortcomings. Furthermore, Smith's air bag is formed preferably of a neoprene backing layer. Because the Toray air bag employs a base fabric for an uncoated air bag, it cannot be formed of a neoprene coated fabric. An attempt to combine Smith with Toray would be contrary to Toray's teachings and unsupportable for this reason alone.

Claim 12 stands rejected under 35 U.S.C. § 103(a) over Toray in view of Mizuki et al. ("Mizuki"). This rejection is also respectfully traversed. Mizuki discusses the well-known factor of birefringence, but this discussion does correct the shortcomings of Toray identified and discussed earlier. Further, Mizuki does not teach the requirement in claim 12 that the birefringence of the weft is larger than that of the warp. The Examiner's solution is again "routine optimization" until the birefringence of the weft is larger than that of the warp. Not only does this approach deprecate the invention, it overlooks completely the technical significance of this claimed feature, namely, to make the mechanical properties substantially the same in the warp and weft directions of the fabric. See application, page 10, lines 26 to 36. While it is plausible that Toray would have birefringence as high as needed for obtaining a high-strength yarn, the technical relationship of warp yarn to weft yarn, as recited in claim 12, is neither taught nor made

obvious by either Toray or Mizuki. Additionally, neither of their respective teachings lays a groundwork for invoking the "routine optimization" solution of the Examiner for correcting the deficiencies of a reference.

Early consideration and allowance of claims 9-21 are earnestly solicited.

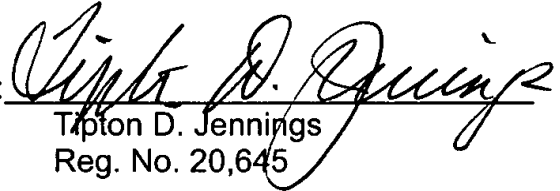
Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 25, 2003

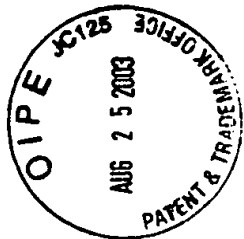
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Attachments: Tables A and B and Supplement to Tables A and B: Definitions

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Table A Present Examples (EX) and Comparative Examples (CE)

	EX1	EX2	EX3	EX4	EX5	EX6	CE1	CE2	CE3	CE4
Fabrics										
Weave density ends/2.54 cm; picks/2.54 cm	95 93	95 93	95 93	90 98	94 94	142 142	95 93	95 93	192 190	78 75
Strength at break kg/3 cm N/2.54 cm	1010 930	900 850	770 740	963 983	951 941	760 740	998 872	1000 871	564 559	1326 1275
Tensile work (Estimated.) N·m/2.54 cm (measured value)	17675 12555	20250 14450	20790 15910	16853 13271	19020 12704	14060 9620	7984 6540	8000 6097	1974 4752	13260 19125
Tensile work/g·fabric N·m·m ² /2.54 cm/g	20500 13500	20600 14500	17500 13600	17800 14900	20500 14000	12500 8000	20000 12000	20500 12000	6000 5900	30000 26000
Cover factor	303 220	347 253	356 279	305 220	329 220	322 221	137 114	137 107	47 113	185 278
Weave fineness dtex·end/2.54 cm; dtex·picks/2.54 cm	2224 14820 14508	2224 14820 14508	2224 14820 14508	2224 14040 15288	2224 14664 14664	2376 11076	2224 14820 14508	2224 14820 14508	2701 10752 10640	2243 18174 17475
Elongation at break	35 27	45 34	54 43	35 27	40 27	37 26	16 15	16 14	7 17	20 30
Basis of weight (measured) g/m ²	125 125	125 125	125 125	125 125	125 125	94 94	125 125	125 125	92 92	152 152
Basis of weight (estimated) (warp, weft)	115 58	115 58	115 58	115 55	115 58	87 44	115 58	115 58	84 42	140 72
Yarns (warp, weft)										
Yarn size dtex denier	156 156	156 156	156 156	156 156	156 156	78 78	156 156	156 156	56 56	233 233
Fineness of single filament dtex/filament	140 140	140 140	140 140	140 140	140 140	70 70	140 140	140 140	50 50	215 215
	2.2 2.2	2.2 2.2	2.2 2.2	2.2 2.2	2.2 2.2	2.2 2.2	2.2 2.2	2.2 2.2	1.6 1.6	6.7 6.7



Table B Toray Examples (TE) and Comparative Examples (TC)

	TE1	TE2	TE3	TE4	TE5	TC1	TC2	TC3	TC4
Fabrics Weave density ends/2.54 cm; picks/2.54 cm	55 55	55 55	55 55	70 70	66 66	46 46	55 55	55 55	66 66
Strength at break kg/3 cm N/2.54 cm	203 210 1686 1744	190 188 1578 1561	208 202 1727 1677	220 215 1827 1785	201 192 1669 1594	212 210 1760 1744	245 232 2034 1926	240 233 1993 1935	211 201 1752 1669
Tensile work (estimated.) N·% / 2.54 cm (measured value)	26968 24411	26819 22634	29359 23481	29226 24992	25033 19130	26403 22667	35599 28894	35869 29986	25403 20027
Tensile work/g·fabric N·%·m' / 2.54 cm/g	265 240	264 222	288 231	303 259	205 157	310 266	350 284	352 295	208 164
Cover factor Weave fineness dtex·end/2.54 cm;	2257 25850	2257 25850	2260 25850	2489 24500	2705 31020	1890 21620	2260 25850	2257 25850	2705 31020
dtex·picks/2.54 cm	32 28	34 29	34 28	32 28	30 24	30 26	35 30	36 31	29 24
Elongation at break Basis of weight (measured) g/m ²	204	204	204	193	244	170	204	204	244
Basis of weight (estimated) (warp, weft)	102 102	102 102	102 102	96 96	122 122	85 85	102 102	102 102	122 122
Yarns (warp, weft) yarn size dtex denier	470 470 421 421	470 470 421 421	470 470 422 422	350 350 316 316	470 470 420 420	470 470 422 422	470 470 422 422	470 470 421 421	470 470 420 420
Fineness of single filament dtex/filament	3.3 3.3	3.3 3.3	3.3 3.3	2.4 2.4	2.2 2.2	6.5 6.5	6.5 6.5	3.3 3.3	2.2 2.2



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Supplement to Tables A and B: Definitions

- 1) Tensile work (=energy) converted (per 2.54 cm width of fabric)

(Strength of fabric * tensile elongation)/2

---- Formula (1)

Tensile work (Estimated) corresponds to an area below stress-strain curve from the initial point of the curve to the point where the fabric break, and in Table A and B the value is estimated value obtained by calculating the area of a triangle surrounded by the three straight lines connecting the initial point of stress-strain curve, breaking point of the curve and the base line of the stress-strain curve (see Fig. 1 of the drawing).

- 2) Weight of fabric estimated (=basis of weight)

Weight of warp yarn [weave density * weight of warp yarn] + Weight of weft yarn [Weave density * Weight of weft yarn] ---- Formula (1)

Crimp ratio of woven yarns are neglected.

- 3) Tensile work (estimated) of fabric/weight

The value of tensile work (estimated) is calculated based on the value of tensile work by Formula (1) and the weight of fabric by formula (2).

The weight in the formula is related to 'm' in $\frac{1}{2} \times mv^2$ which represents a dissipated energy of air bag when the air bag is at deployment. Work converted relates to

pressure at burst of an air bag. The dissipated work (energy) is absorbed by the inflating gas pressure. Accordingly, a value of work estimated/weight can be a parameter capable of evaluating resistance to bursting pressure of a fabric regardless of basis of weight of fabric.